

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN ROBINSON,

Petitioner,

v.

MARY K. BERGHUIS,

Respondent.

Case No. 1:04-CV-722

Hon. Richard Alan Enslen

ORDER

This matter is before the Court on Petitioner Kevin Robinson's Motion for Leave to Appeal *in Forma Pauperis* and his Motion for Certificate of Appealability. The Motion for Leave to Appeal is supported by his recent Affidavit as well as his original Certificate of Prisoner Institutional/Trust Fund Account Activity, which show that Petitioner is indigent. (*See* Dkt. Nos. 2-2, 31 & 32; *see also* Fed. R. App. P. 24(a)(3).) Federal law allows indigent habeas petitioners to proceed *in forma pauperis* on appeal under 28 U.S.C. § 1915(a)(1). *See Kincade v. Sparkman*, 117 F.3d 949, 951-52 (6th Cir. 1997); *United States v. Simmonds*, 111 F.3d 737, 741-43 (10th Cir. 1997).

Regarding the Motion for Certificate of Appealability, this Court determined at the time of the entry of the Final Order that a certificate should be denied. (*See* Dkt. No. 29.) Petitioner's present Motion is, thus, regarded as a motion for reconsideration of that decision. Pursuant to Western District of Michigan Local Civil Rule 7.4(a), reconsideration is appropriate only when the movant "demonstrate[s] a palpable defect by which the Court and the parties have been misled . . . [and] that a different disposition must result from the correction thereof." Petitioner's Motion fails to demonstrate either.

THEREFORE, IT IS HEREBY ORDERED that Petitioner Kevin Robinson's Motion for Leave to Appeal *in Forma Pauperis* (Dkt. No. 32) is **GRANTED**.

IT IS FURTHER ORDERED that Petitioner's Motion for Certificate of Appealability (Dkt. No. 34) is **DENIED**.

DATED in Kalamazoo, MI:
March 24, 2008

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE